

## REMARKS

### **I. Status of the Claims**

Claims 1-65 were filed with the original application. Claims 2-4, 6-9, 20-22, 24-27 and 50-55 stand withdrawn pursuant to a restriction requirement, and are hereby canceled along with claims 5 and 23 and thus claims 1, 10-19, 29, 31-49 and 56-65 are under examination and are either objected to or rejected, variously, under 35 U.S.C. §112 (first and second paragraphs) or 35 U.S.C. §102. The specific grounds for rejection, and applicants' response thereto, are set out in detail below.

### **II. Objection**

Claims 36038 are objected to for alleged informalities. An amendment as suggested by the examiner is provided.

### **III. Rejection Under 35 U.S.C. §112, Second Paragraph**

Claims 29, 31 and 32 stand rejected under the second paragraph of §112 as lacking antecedent basis. An amendment to claim 19 addresses this issue. Reconsideration and withdrawal of the rejection is therefore respectfully requested.

### **IV. Rejections Under 35 U.S.C. §112, First Paragraph**

Claims 19, 23, 33-49 and 58-65 are rejected as lacking enablement for species other than *Staphylococcal* or *Haemophilus* species. Amendments are provided. Reconsideration and withdrawal of the rejection is respectfully requested.

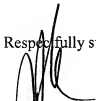
**V. Rejection Under 35 U.S.C. §102**

Claim 56 is rejected as anticipated by U.S. Patent Publication 2003/0'43671 ("the '671 application") and U.S. Patent 6,180,604 ("the '604 patent"). The examiner argues that the peptides of the '671 application and '604 patent are not distinguishable from the peptides of claim 56 as they are defined only by the steps by which they are obtained. It also is argued that "process limitations do not impart patentability to product-by-process claims where the product is otherwise anticipated." Applicants traverse, but in the interest of advancing the prosecution, claim 56 has been canceled. Reconsideration and withdrawal of the rejections is therefore respectfully requested.

**VI. Conclusion**

In light of the foregoing, applicants submit that all claims are in condition for allowance, and an early notification to that effect is earnestly solicited. Should the examiner have any questions or comments regarding this application, a telephone call to the undersigned is invited.

Respectfully submitted,



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